

of embarkation is satisfied after consultation with, and concurrence by, the appropriate immigration officer, that the case falls within any of the following categories:

(a) *Residents of foreign contiguous territory; visa and passport waiver.* An alien residing in foreign contiguous territory who does not qualify for any waiver provided in § 41.1 and is a member of a visiting group or excursion proceeding to the United States under circumstances which make it impractical to procure a passport and visa in a timely manner.

(b) *Aliens for whom passport extension facilities are unavailable; passport waiver.* As alien whose passport is not valid for the period prescribed in INA 212(a)(7)(B)(i)(I) and who is embarking for the United States at a port or place remote from any establishment at which the passport could be revalidated.

(c) *Aliens precluded from obtaining passport extensions by foreign government restrictions; passport waiver.* An alien whose passport is not valid for the period prescribed in INA 212(a)(7)(B)(i)(I) and whose government, as a matter of policy, does not revalidate passports more than 6 months prior to expiration or until the passport expires.

(d) *Emergent circumstances; visa waiver.* An alien well and favorably known at the consular office, who was previously issued a nonimmigrant visa which has expired, and who is proceeding directly to the United States under emergent circumstances which preclude the timely issuance of a visa.

(e) *Members of armed forces of foreign countries; visa and passport waiver.* An alien on active duty in the armed forces of a foreign country and a member of a group of such armed forces traveling to the United States, on behalf of the alien's government or the United Nations, under advance arrangements made with the appropriate military authorities of the United States. The waiver does not apply to a citizen or resident of Cuba, Mongolia, North Korea (Democratic People's Republic of Korea), Vietnam (Socialist Republic of Vietnam), or the People's Republic of China.

(f) *Landed immigrants in Canada; passport waiver.* An alien applying for a visa at a consular office in Canada:

(1) Who is a landed immigrant in Canada;

(2) Whose port and date of expected arrival in the United States are known; and

(3) Who is proceeding to the United States under emergent circumstances which preclude the timely procurement of a passport or Canadian certificate of identity.

(g) *Authorization to individual consular office; visa and/or passport waiver.* An alien within the district of a consular office which has been authorized by the Department, because of unusual circumstances prevailing in that district, to join with immigration officers abroad in waivers of documentary requirements in specific categories of cases, and whose case falls within one of those categories.

[52 FR 42597, Nov. 5, 1987, as amended at 56 FR 30428, July 2, 1991; 60 FR 30188, June 8, 1995; 61 FR 1835, Jan. 24, 1996; 63 FR 48577, Sept. 11, 1998]

## Subpart B—Classification of Nonimmigrants

### § 41.11 Entitlement to nonimmigrant status.

(a) *Presumption of immigrant status and burden of proof.* An applicant for a nonimmigrant visa, other than an alien applying for a visa under INA 101(a)(15)(H)(i) or (L), shall be presumed to be an immigrant until the consular officer is satisfied that the alien is entitled to a nonimmigrant status described in INA 101(a)(15) or otherwise established by law or treaty. The burden of proof is upon the applicant to establish entitlement for nonimmigrant status and the type of nonimmigrant visa for which application is made.

(b) *Aliens unable to establish non-immigrant status.* (1) A nonimmigrant visa shall not be issued to an alien who has failed to overcome the presumption of immigrant status established by INA 214(b).

(2) In a borderline case in which an alien appears to be otherwise entitled to receive a visa under INA 101(a)(15)(B) or (F) but the consular officer concludes that the maintenance of the

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alien's status or the departure of the alien from the United States as required is not fully assured, a visa may nevertheless be issued upon the posting of a bond with the Attorney General under terms and conditions prescribed by the consular officer.

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### § 41.12 Classification symbols.

A visa issued to a nonimmigrant alien within one of the classes described in this section shall bear an appropriate visa symbol to show the classification of the alien. The symbol shall be inserted in the space provided in the visa stamp. The following visa symbols shall be used:

#### NONIMMIGRANTS

Symbol	Class	Section of law
A-1 .....	Ambassador, Public Minister, Career Diplomat or Consular Officer, or Immediate Family.	101(a)(15)(A)(i).
A-2 .....	Other Foreign Government Official or Employee, or Immediate Family .....	101(a)(15)(A)(ii).
A-3 .....	Attendant, Servant, or Personal Employee of A-1 or A-2, or Immediate Family.	101(a)(15)(A)(iii).
B-1 .....	Temporary Visitor for Business .....	101(a)(15)(B).
B-2 .....	Temporary Visitor for Pleasure .....	101(a)(15)(B).
B-1/B-2 .....	Temporary Visitor for Business & Pleasure .....	101(a)(15)(B).
C-1 .....	Alien in Transit .....	101(a)(15)(C).
C-1/D .....	Combined Transit and Crewman Visa .....	101(a)(15)(C) and (D).
C-2 .....	Alien in Transit to United Nations Headquarters District Under Sec. 11.(3), (4), or (5) of the Headquarters Agreement.	101(a)(15)(C).
C-3 .....	Foreign Government Official, Immediate Family, Attendant, Servant or Personal Employee, in Transit.	212(d)(8).
D .....	Crewmember (Sea or Air) .....	101(a)(15)(D).
E-1 .....	Treaty Trader, Spouse or Child .....	101(a)(15)(E)(i).
E-2 .....	Treaty Investor, Spouse or Child .....	101(a)(15)(E)(ii).
F-1 .....	Student .....	101(a)(15)(F)(i).
F-2 .....	Spouse or Child of F-1 .....	101(a)(15)(F)(ii).
G-1 .....	Principal Resident Representative of Recognized Foreign Government to International Organization, Staff, or Immediate Family.	101(a)(15)(G)(i).
G-2 .....	Other Representative of Recognized Foreign Member Government to International Organization, or Immediate Family.	101(a)(15)(G)(ii).
G-3 .....	Representative of Nonrecognized Nonmember Foreign Government to International Organization, or Immediate Family.	101(a)(15)(G)(iii).
G-4 .....	International Organization Officer or Employee, or Immediate Family .....	101(a)(15)(G)(iv).
G-5 .....	Attendant, Servant, or Personal Employee of G-1 through G-4 or Immediate Family.	101(a)(15)(G)(v).
H-1A .....	Registered Nurse .....	101(a)(15)(H)(i)(a).
H-1B .....	Alien in a Specialty Occupation (Profession) .....	101(a)(15)(H)(i)(b).
H-2A .....	Temporary Worker Performing Agricultural Services Unavailable In the United States (Petition filed on or After June 1, 1987).	101(a)(15)(H)(ii)(a).
H-2B .....	Temporary Worker Performing Other Services Unavailable in the United States (Petition filed on or After June 1, 1987).	101(a)(15)(H)(ii)(b).
H-3 .....	Trainee .....	101(a)(15)(H)(iii).
H-4 .....	Spouse or Child of Alien Classified H-1A/B, H2A/B, or H-3 .....	101(a)(15)(H)(iv).
I .....	Representative of Foreign Information Media, Spouse and Child .....	101(a)(15)(I).
J-1 .....	Exchange Visitor .....	101(a)(15)(J).
J-2 .....	Spouse or Child of J-1 .....	101(a)(15)(J).
K-1 .....	Fiance(e) of United States Citizen .....	101(a)(15)(K).
K-2 .....	Child of Fiance(e) of U.S. Citizen .....	101(a)(15)(K).
L-1 .....	Intracompany Transferee (Executive, Managerial, and Specialized Knowledge Personnel Continuing Employment with International Firm or Corporation.	101(a)(15)(L).
L-2 .....	Spouse or Child of Intracompany Transferee .....	101(a)(15)(L).
M-1 .....	Vocational Student or Other Nonacademic Student .....	101(a)(15)(M).
M-2 .....	Spouse or Child of M-1 .....	101(a)(15)(M).
N-8 .....	Parent of an Alien Classified SK-3 Special Immigrant .....	101(a)(15)(N)(i).
N-9 .....	Child of N-8 or of an SK-1, SK-2, or SK-4 Special Immigrant .....	101(a)(15)(N)(ii).
NATO-1 .....	Principal Permanent Representative of Member State to NATO (including any of its Subsidiary Bodies) Resident in the U.S. and Resident Members of Official Staff; Secretary General, Assistant Secretary General, and Executive Secretary of NATO; Other Permanent NATO Officials of Similar Rank, or Immediate Family.	Art. 12, 5 UST 1094; Art. 20, 5 UST 1098.